

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

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FILE:

B-219587.1

DATE: August 6, 1985**MATTER OF:**

United Partition Systems, Inc.

DIGEST:

Bid offering materials F.O.B. Anaheim, California in response to IFB requiring the successful bidder to furnish and install an office in Hawaii is nonresponsive and must be rejected.

United Partition Systems, Inc. protests the rejection of its bid as nonresponsive under invitation for bids (IFB) No. DAHC77-85-B-0557, issued by the Department of the Army, to furnish material for, and install, an office in Schofield Barracks, Hawaii. The Army rejected the protester's bid because it stated that the materials would be provided F.O.B. Anaheim, California, instead of being furnished by the contractor at the barracks during performance. The protester contends that its bid was proper since the IFB did not specify an F.O.B. point for materials.

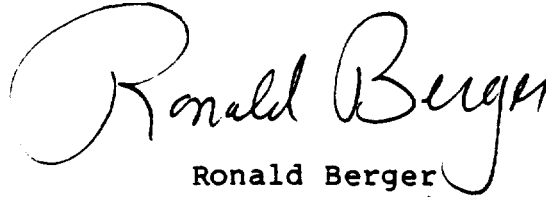
In a sealed bidding procurement, a bid that takes exception to a material requirement of the IFB (that is, any requirement having more than a negligible or trivial effect on price, quantity, quality or delivery) may not be considered for award. Federal Acquisition Regulation, §§ 14.301(a) and 14.405 (Federal Acquisition Circular No. 84-5). Because the IFB required the successful bidder to furnish materials and install an office at the Schofield Barracks, it was clear that the IFB did not permit the delivery of any portion of the contract at another location. Furthermore, the IFB contemplated that the contractor would be responsible for providing all materials at no risk to the government. By offering to deliver materials F.O.B. Anaheim, however, the protester shifted any risk of loss between Anaheim and Schofield Barracks to the government. The protester's bid therefore took exception to material

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terms of the IFB regarding delivery, and was properly rejected as nonresponsive. See A&H Precision Products, Inc., B-206932, Apr. 16, 1982, 82-1 C.P.D. ¶ 354.

The protest is dismissed.

A handwritten signature in cursive script that reads "Ronald Berger". The signature is written in dark ink and is positioned above the printed name and title.

Ronald Berger
Deputy Associate
General Counsel